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## HOUSE BILL No. 1398

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-22-5-8; IC 6-2.5-7; IC 6-6-1.1-301; IC 15-11-11-6.5; IC 15-15-12; IC 16-44; IC 20-26-17; IC 21-31-9.

**Synopsis:** Ethanol incentives. Reduces the credit sale of E85 biofuel that a retailer may apply against the amount of gross retail tax that the retailer must deposit with the department of state revenue from \$0.18 to \$0.10 per gallon. Applies to the credit to the sale of E20 and E30 biofuel. Exempts the state and its political subdivisions from the gasoline tax on E85 biofuel. Adds school corporations and state educational institutions to the list of governmental entities that are eligible to apply to the department of agriculture for a grant under the E85 fueling station grant program. Requires the corn marketing council to use revenue received from assessments on the sale of corn to provide grants to assist retailers and governmental entities in purchasing new or converting existing fuel storage tanks to hold E85. Requires gasoline sold for motor vehicles to have a minimum content of 10% ethanol. Requires school corporations and state educational institutions to use gasoline and E85 fuel to the extent possible and to make facilities used to dispense biofuels reasonably available to sell biofuels at retail to the public.

**Effective:** Upon passage; July 1, 2009.

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**Grubb, Friend, Pearson**

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January 13, 2009, read first time and referred to Committee on Agriculture and Rural Development.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE BILL No. 1398

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 5-22-5-8, AS AMENDED BY P.L.6-2005,  
2       SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       UPON PASSAGE]: Sec. 8. (a) This section does not apply to a political  
4       subdivision, **except a school corporation (as defined in**  
5       **IC 20-18-2-16(a)).**

6       (b) As used in this section, "blended biodiesel" has the meaning set  
7       forth in IC 6-3.1-27-2.

8       (c) **As used in this section, "diesel fueled vehicle" refers to a**  
9       **vehicle that is capable of using diesel to fuel its primary motor.**

10       ~~(c)~~ (d) As used in this section, "ethanol" means agriculturally  
11       derived ethyl alcohol.

12       ~~(d)~~ (e) As used in this section, "gasohol" means gasoline that  
13       contains:

14               (1) at least ten percent (10%) ethanol; or

15               (2) ethyl tertiary butyl ether (ETBE) additives derived from  
16               ethanol.

17       ~~(e)~~ (f) As used in this section, "gasoline fueled vehicle" refers to a

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vehicle that is capable of using gasoline to fuel its primary motor.

~~(f)~~ (g) As used in this section, "vehicle" includes the following:

- (1) An automobile.
- (2) A truck.
- (3) A tractor.

~~(g)~~ (h) Except as provided by subsection ~~(f)~~; (j), a governmental body shall whenever possible purchase gasohol to fuel the gasoline fueled vehicles owned or operated by the governmental body.

~~(h)~~ (i) Except as provided by subsection ~~(f)~~; (j), a governmental body shall whenever possible purchase blended biodiesel fuel to fuel the diesel fueled vehicles owned or operated by the governmental body.

~~(i)~~ (j) The following vehicles are exempt from the requirements of subsections ~~(g)~~ and (h) and (i):

- (1) A vehicle that is leased by the governmental body for thirty (30) days or less.
- (2) A vehicle whose official operating manual, as issued by the manufacturer of the vehicle, contains a statement that the use of gasohol or blended biodiesel fuel will damage the engine of the vehicle.
- (3) A vehicle that:
  - (A) is primarily powered by an electric motor; or
  - (B) can use only propane, compressed or liquified natural gas, or methanol as its fuel source.

SECTION 2. IC 6-2.5-7-1, AS AMENDED BY P.L.1-2007, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Kerosene" has the same meaning as the definition contained in IC 16-44-2-2.

(c) "Gasoline" has the same meaning as the definition contained in IC 6-6-1.1-103.

(d) "Special fuel" has the same meaning as the definition contained in IC 6-6-2.5-22.

**(e) "E20" means a fuel blend nominally consisting of twenty percent (20%) ethanol and eighty percent (80%) gasoline.**

**(f) "E30" means a fuel blend nominally consisting of thirty percent (30%) ethanol and seventy percent (70%) gasoline.**

~~(e)~~ (g) "E85" has the meaning set forth in IC 6-6-1.1-103.

~~(f)~~ (h) "Unit" means the unit of measure, such as a gallon or a liter, by which gasoline or special fuel is sold.

~~(g)~~ (i) "Metered pump" means a stationary pump which is capable of metering the amount of gasoline or special fuel dispensed from it

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and which is capable of simultaneously calculating and displaying the price of the gasoline or special fuel dispensed.

~~(h)~~ **(j)** "Indiana gasoline tax" means the tax imposed under IC 6-6-1.1.

~~(i)~~ **(k)** "Indiana special fuel tax" means the tax imposed under IC 6-6-2.5.

~~(j)~~ **(l)** "Federal gasoline tax" means the excise tax imposed under Section 4081 of the Internal Revenue Code.

~~(k)~~ **(m)** "Federal special fuel tax" means the excise tax imposed under Section 4041 of the Internal Revenue Code.

~~(l)~~ **(n)** "Price per unit before the addition of state and federal taxes" means an amount which equals the remainder of:

(1) the total price per unit; minus

(2) the state gross retail, Indiana gasoline or special fuel, and federal gasoline or special fuel taxes which are part of the total price per unit.

~~(m)~~ **(o)** "Total price per unit" means the price per unit at which gasoline or special fuel is actually sold, including the state gross retail, Indiana gasoline or special fuel, and federal gasoline or special fuel taxes which are part of the sales price.

~~(n)~~ **(p)** "Distributor" means a person who is the first purchaser of gasoline from a refiner, a terminal operator, or supplier, regardless of the location of the purchase.

~~(o)~~ **(q)** "Prepayment rate" means a rate per gallon of gasoline determined by the department under section 14 of this chapter for use in calculating prepayment amounts of gross retail tax under section 9 of this chapter.

~~(p)~~ **(r)** "Purchase or shipment" means a sale or delivery of gasoline, but does not include:

(1) an exchange transaction between refiners, terminal operators, or a refiner and terminal operator; or

(2) a delivery by pipeline, ship, or barge to a refiner or terminal operator.

~~(q)~~ **(s)** "Qualified distributor" means a distributor who:

(1) is a licensed distributor under IC 6-6-1.1; and

(2) holds an unrevoked permit issued under section 7 of this chapter.

~~(r)~~ **(t)** "Refiner" means a person who manufactures or produces gasoline by any process involving substantially more than the blending of gasoline.

~~(s)~~ **(u)** "Terminal operator" means a person that:

(1) stores gasoline in tanks and equipment used in receiving and

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1 storing gasoline from interstate or intrastate pipelines pending  
2 wholesale bulk reshipment; or

3 (2) stores gasoline at a boat terminal transfer that is a dock or  
4 tank, or equipment contiguous to a dock or tank, including  
5 equipment used in the unloading of gasoline from a ship or barge  
6 and used in transferring the gasoline to a tank pending wholesale  
7 bulk reshipment.

8 SECTION 3. IC 6-2.5-7-5, AS AMENDED BY P.L.146-2008,  
9 SECTION 315, IS AMENDED TO READ AS FOLLOWS  
10 [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Each retail merchant who  
11 dispenses gasoline or special fuel from a metered pump shall, in the  
12 manner prescribed in IC 6-2.5-6, report to the department the following  
13 information:

14 (1) The total number of gallons of gasoline sold from a metered  
15 pump during the period covered by the report.

16 (2) The total amount of money received from the sale of gasoline  
17 described in subdivision (1) during the period covered by the  
18 report.

19 (3) That portion of the amount described in subdivision (2) which  
20 represents state and federal taxes imposed under this article,  
21 IC 6-6-1.1, or Section 4081 of the Internal Revenue Code.

22 (4) The total number of gallons of special fuel sold from a  
23 metered pump during the period covered by the report.

24 (5) The total amount of money received from the sale of special  
25 fuel during the period covered by the report.

26 (6) That portion of the amount described in subdivision (5) that  
27 represents state and federal taxes imposed under this article,  
28 IC 6-6-2.5, or Section 4041 of the Internal Revenue Code.

29 (7) The ~~total sum of the~~ number of gallons of **E20, E30, and E85**  
30 sold from a metered pump during the period covered by the  
31 report.

32 (b) Concurrently with filing the report, the retail merchant shall  
33 remit the state gross retail tax in an amount which equals six and  
34 fifty-four hundredths percent (6.54%) of the gross receipts, including  
35 state gross retail taxes but excluding Indiana and federal gasoline and  
36 special fuel taxes, received by the retail merchant from the sale of the  
37 gasoline and special fuel that is covered by the report and on which the  
38 retail merchant was required to collect state gross retail tax. The retail  
39 merchant shall remit that amount regardless of the amount of state  
40 gross retail tax which the merchant has actually collected under this  
41 chapter. However, the retail merchant is entitled to deduct and retain  
42 the amounts prescribed in subsection (c), IC 6-2.5-6-10, and

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IC 6-2.5-6-11.

(c) A retail merchant is entitled to deduct from the amount of state gross retail tax required to be remitted under subsection (b) the amount determined under STEP THREE of the following formula:

STEP ONE: Determine:

(A) the sum of the prepayment amounts made during the period covered by the retail merchant's report; minus

(B) the sum of prepayment amounts collected by the retail merchant, in the merchant's capacity as a qualified distributor, during the period covered by the retail merchant's report.

STEP TWO: Subject to subsection (d), for reporting periods ending before July 1, 2020, determine the product of:

(A) ~~eighteen ten cents (\$0.18);~~ **(\$0.10);** multiplied by

(B) the **sum of the** number of gallons of **E20, E30, and E85** sold at retail by the retail merchant during the period covered by the retail merchant's report.

STEP THREE: Add the amounts determined under STEPS ONE and TWO.

For purposes of this section, a prepayment of the gross retail tax is presumed to occur on the date on which it is invoiced.

(d) The total amount of deductions allowed under subsection (c) STEP TWO may not exceed one million dollars (\$1,000,000) for all retail merchants in all reporting periods. A retail merchant is not required to apply for an allocation of deductions under subsection (c) STEP TWO. If the department determines that the sum of:

(1) the deductions that would otherwise be reported under subsection (c) STEP TWO for a reporting period; plus

(2) the total amount of deductions granted under subsection (c) STEP TWO in all preceding reporting periods;

will exceed one million dollars (\$1,000,000), the department shall publish in the Indiana Register a notice that the deduction program under subsection (c) STEP TWO is terminated after the date specified in the notice and that no additional deductions will be granted for retail transactions occurring after the date specified in the notice.

SECTION 4. IC 6-6-1.1-301 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 301. The following transactions are exempt from the gasoline tax:

(1) Gasoline exported from Indiana to another state, territory, or foreign country.

(2) Gasoline sold to the United States or an agency or instrumentality thereof.

(3) Gasoline sold to a post exchange or other concessionaire on a

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federal reservation within Indiana; however, the post exchange or concessionaire shall collect, report, and pay to the administrator any tax permitted by federal law on gasoline sold.

(4) Gasoline used by a licensed distributor for any purpose other than the generation of power for the propulsion of motor vehicles upon the public highways.

(5) Gasoline received by a licensed distributor and thereafter lost or destroyed, except by evaporation, shrinkage, or unknown cause, while the distributor is still the owner.

**(6) E85 sold to the state of Indiana, a state educational institution, a political subdivision (as defined in IC 36-1-2-13), or an instrumentality of a political subdivision (as defined in IC 36-1-2-13) to carry out a public governmental function. This subdivision does not apply to E85 that is held for resale to the public.**

SECTION 5. IC 15-11-11-6.5, AS ADDED BY P.L.91-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.5. As used in this chapter, "unit" means a city, town, county, ~~or~~ township, **school corporation (as defined in IC 20-18-2-16(a)), or state educational institution (as defined in IC 21-7-13-32).**

SECTION 6. IC 15-15-12-10, AS ADDED BY P.L.2-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. As used in this chapter, "market development" means to:

(1) provide for the development of new or larger domestic and foreign markets for corn;

(2) promote the production and marketing of renewable fuels and new technologies that use corn;

**(3) provide grants to fuel retailers and units (as defined in IC 15-11-11-6.5) to assist with the cost of purchasing new or converting existing fuel storage tanks to hold E85 (as defined in IC 6-6-1.1-103); and**

~~(4)~~ **(4)** access federal government money available to the state to further the market development activities described in subdivisions (1) and (2).

SECTION 7. IC 15-15-12-37, AS ADDED BY P.L.2-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. (a) Proceeds of the checkoff assessment collected by the council under this chapter may not be used to influence legislation or governmental action or policy.

(b) Proceeds of the assessment collected under this chapter may be

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used to communicate information related to the:

- (1) conduct;
- (2) implementation; or
- (3) results;

of promotion, research, and market development activities to appropriate government officials.

(c) After January 1, 2009, proceeds of the assessment collected under this chapter may be used for action designed to market corn or corn products directly to a foreign government or a political subdivision of a foreign government. However, not more than five percent (5%) of the annual amount collected may be used under this subsection.

**(d) Proceeds of the assessment collected under this chapter may be used provide grants to fuel retailers and units (as defined in IC 15-11-11-6.5) to assist with the cost of purchasing new or converting existing fuel storage tanks to hold E85 (as defined in IC 6-6-1.1-103). The total of all grants provided under this subsection for any single location may not exceed twenty-thousand dollars (\$20,000). The council shall determine the annual amount to be used under this subsection.**

SECTION 8. IC 16-44-2-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.5. As used in this chapter, "ethanol" means agriculturally derived ethyl alcohol.**

SECTION 9. IC 16-44-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) The inspections and tests made by the state department under this chapter shall be conducted in accordance with the methods outlined by the American Society for Testing and Materials.

(b) The inspections and tests as to gasoline, gasohol, and kerosene must reflect the following minimum specifications necessary for the approval of the product:

- (1) Gasoline or gasohol:

(A) Corrosion Test – Method ASTM D-130. A clean copper strip may not show more than extremely slight discoloration when submerged in the gasoline for three (3) hours at one hundred twenty-two (122) degrees Fahrenheit.

(B) Distillation Range – Method ASTM D-86. When the thermometer reads one hundred sixty-seven (167) degrees Fahrenheit, not less than ten percent (10%) may be evaporated. When the thermometer reads two hundred eighty-four (284) degrees Fahrenheit, not less than fifty percent (50%) may be

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1 evaporated. When the thermometer reads three hundred  
 2 ninety-two (392) degrees Fahrenheit, not less than ninety  
 3 percent (90%) may be evaporated. The residue may not exceed  
 4 two percent (2%). Percent evaporated is found by adding the  
 5 distillation loss to the amount collected in the receiver at each  
 6 specification temperature.

7 (C) Sulphur—Method ASTM D-1266 or D-2622. Sulphur may  
 8 not exceed twenty-five hundredths of one percent (0.25%).

9 (D) Vapor Pressure—Method ASTM D-4953, ASTM D-5191,  
 10 or any other ASTM method to determine vapor pressure  
 11 approved by the United States Environmental Protection  
 12 Agency. For gasoline, the Reid vapor pressure at one hundred  
 13 (100) degrees Fahrenheit may not exceed the following:

14 (i) Fifteen (15) pounds per square inch at the normal  
 15 barometric pressure at the point of delivery during  
 16 November, December, January, February, and March.

17 (ii) Fourteen (14) pounds per square inch during April and  
 18 October.

19 (iii) Twelve (12) pounds per square inch during May, June,  
 20 July, August, and September.

21 (E) For gasohol (a blend of gasoline and alcohol permitted  
 22 under federal tax requirements), the vapor pressure may not  
 23 exceed the following:

24 (i) Sixteen (16) pounds per square inch during November,  
 25 December, January, February, and March.

26 (ii) Fifteen (15) pounds per square inch during April and  
 27 October.

28 (iii) Thirteen (13) pounds per square inch during May, June,  
 29 July, August, and September.

30 (F) After July 23, 2004, gasoline may not contain more than  
 31 one-half percent (0.5%) of MTBE by volume.

32 **(G) After June 30, 2009, gasoline must contain at least ten**  
 33 **percent (10%) ethanol by volume unless the gasoline is**  
 34 **sold:**

35 **(i) for a purpose permitted by section 8.5 of this chapter;**  
 36 **and**

37 **(ii) in the manner required by IC 16-44-3-8.5.**

38 (2) Kerosene:

39 (A) Flash Test—Method ASTM D-56. Flash point may not be  
 40 lower than one hundred (100) degrees Fahrenheit.

41 (B) For the purpose of this chapter, any petroleum product  
 42 designated by name or reference as "kerosene" must meet the

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federal specifications for kerosene VV-K-211d in effect on March 1, 1977.

(c) **Except as provided by section 8.5 of this chapter**, gasoline, gasohol, and kerosene products that do not comply with the minimum specifications described in subsection (b) may not be sold, offered for sale, or used in Indiana.

(d) Petroleum products other than gasoline, gasohol, or kerosene shall be inspected and tested by the methods as are necessary to determine the contents and characteristics of the product.

(e) **For purposes of determining compliance with subsection (b)(1)(G), a gasoline/ethanol blend is considered to be in compliance if the ethanol content, exclusive of denaturants and permitted contaminants, comprises at least nine and two-tenths percent (9.2%) by volume but not more than ten percent (10%) by volume of the blend, as determined by an appropriate United States Environmental Protection Agency or American Society of Testing Materials standard method of analysis of alcohol or ether content in engine fuels.**

SECTION 10. IC 16-44-2-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8.5. (a) Gasoline that does not contain the minimum ethanol content required by section 8(b)(1)(G) of this chapter may be used only for the following purposes:**

- (1) For use in watercraft.
- (2) For use in airplanes.
- (3) For use in motor sport racing.
- (4) For use in an antique vehicle registered under IC 9-18-12.
- (5) For use in motorcycles.
- (6) For use in off-road vehicles and snowmobiles.
- (7) For use in small engines.

(b) **A person who violates this section commits a Class D infraction.**

SECTION 11. IC 16-44-3-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8.5. (a) As used in this section, "noncompliant gasoline" refers to gasoline that is exempt from the minimum ethanol content requirement of IC 16-44-2-8(b)(1)(G) because the gasoline will be sold for a purpose described in IC 16-44-2-8.5.**

(b) **This section applies only to the retail sale of noncompliant gasoline.**

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(c) Noncompliant gasoline sold for use in a watercraft may be sold and dispensed only at a marina. All metered pumps for the dispensing of the noncompliant gasoline must be posted with a permanent notice stating the information required by subsection (f).

(d) Noncompliant gasoline sold for use in an aircraft may be sold and dispensed only at an airport.

(e) Noncompliant gasoline sold for use in motor sport racing may be sold and dispensed only at a racetrack.

(f) A person who sells noncompliant gasoline for use in an antique vehicle, a motorcycle, an off-road vehicle, a snowmobile, or a small engine may install only one (1) storage tank for storing the noncompliant gasoline on the premises of the person's motor fuel outlet. All metered pumps for the dispensing of the noncompliant gasoline must be posted with a permanent notice stating the following:

**"THIS GASOLINE CONTAINS LESS THAN 10% ETHANOL. FOR USE IN REGISTERED ANTIQUE VEHICLES, OFF-ROAD VEHICLES, MOTORCYCLES, SNOWMOBILES, WATERCRAFT, AND SMALL ENGINES ONLY. THE IMPERMISSIBLE USE OF THIS GASOLINE IS A CLASS D INFRACTION."**

(g) The notice required by subsection (f) must be posted at least two (2) feet above the ground.

(h) A person operating a motor fuel outlet that sells noncompliant gasoline must register the tank storing the noncompliant gasoline with the state department in the manner prescribed by the state department. The amount of noncompliant gasoline sold by the motor fuel outlet must be reported annually to the state department.

(i) Noncompliant gasoline purchased for use in a small engine must be dispensed into a container with a capacity of not more than six (6) gallons. A person who violates this subsection commits a Class C infraction.

(j) A person who offers noncompliant gasoline for sale to the public in violation of this section commits a Class C infraction.

SECTION 12. IC 20-26-17 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

#### **Chapter 17. Sale of Biofuel at Retail**

**Sec. 1.** As used in this chapter, "biofuel" refers to E20, E30, E85, and gasohol.

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1       Sec. 2. As used in this chapter, "E20" has the meaning set forth  
2 in IC 6-2.5-7-1.

3       Sec. 3. As used in this chapter, "E30" has the meaning set forth  
4 in IC 6-2.5-7-1.

5       Sec. 4. As used in this chapter, "E85" has the meaning set forth  
6 in IC 6-6-1.1-103.

7       Sec. 5. As used in this chapter, "gasohol" means gasoline that  
8 contains at least ten percent (10%) and less than twenty percent  
9 (20%) ethanol by volume.

10       Sec. 6. The governing body of a school corporation shall adopt  
11 policies and standards and take other actions necessary to make  
12 property owned or leased by the school corporation (or by another  
13 school corporation under an interlocal agreement with the other  
14 school corporation) to dispense biofuel to automobiles, trucks, and  
15 tractors owned or used by the school corporation reasonably  
16 available to provide and sell biofuel at retail to the public.

17       SECTION 13. IC 21-31-9-3 IS ADDED TO THE INDIANA CODE  
18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
19 UPON PASSAGE]: Sec. 3. (a) As used in this section, "blended  
20 biodiesel" has the meaning set forth in IC 6-3.1-27-2.

21       (b) As used in this section, "diesel fueled vehicle" refers to a  
22 vehicle that is capable of using diesel to fuel its primary motor.

23       (c) As used in this section, "ethanol" means agriculturally  
24 derived ethyl alcohol.

25       (d) As used in this section, "gasohol" means gasoline that  
26 contains:

- 27       (1) at least ten percent (10%) ethanol; or
- 28       (2) ethyl tertiary butyl ether (ETBE) additives derived from
- 29       ethanol.

30       (e) As used in this section, "gasoline fueled vehicle" refers to a  
31 vehicle that is capable of using gasoline to fuel its primary motor.

32       (f) As used in this section, "vehicle" includes the following:

- 33       (1) An automobile.
- 34       (2) A truck.
- 35       (3) A tractor.

36       (g) Except as provided by subsection (i), a state educational  
37 institution shall whenever possible purchase gasohol to fuel the  
38 gasoline fueled vehicles owned or operated by the state educational  
39 institution.

40       (h) Except as provided by subsection (i), a state educational  
41 institution shall whenever possible purchase blended biodiesel fuel  
42 to fuel the diesel fueled vehicles owned or operated by the state

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educational institution.

(i) The following vehicles are exempt from the requirements of subsections (g) and (h):

(1) A vehicle that is leased by the state educational institution for thirty (30) days or less.

(2) A vehicle whose official operating manual, as issued by the manufacturer of the vehicle, contains a statement that the use of gasohol or blended biodiesel fuel will damage the engine of the vehicle.

(3) A vehicle that:

(A) is primarily powered by an electric motor; or

(B) can use only propane, compressed or liquified natural gas, or methanol as its fuel source.

SECTION 14. IC 21-31-9-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The following definitions apply throughout this section:

(1) "Biofuel" refers to E20, E30, E85, and gasohol.

(2) "E20" has the meaning set forth in IC 6-2.5-7-1.

(3) "E30" has the meaning set forth in IC 6-2.5-7-1.

(4) "E85" has the meaning set forth in IC 6-6-1.1-103.

(5) "Gasohol" means gasoline that contains at least ten percent (10%) and less than twenty percent (20%) ethanol by volume.

(b) The board of trustees of a state educational institution shall adopt policies and standards and take other actions necessary to make property owned or leased by the state educational institution to dispense biofuel to automobiles, trucks, and tractors owned or used by the state educational institution reasonably available to provide and sell biofuel at retail to the public.

SECTION 15. An emergency is declared for this act.

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